



**DEPARTMENT OF THE ARMY**

DETROIT DISTRICT, CORPS OF ENGINEERS

BOX 1027

DETROIT, MICHIGAN 48231-1027

July 7, 2000

IN REPLY REFER TO

File No. 88-245-003-5

Mr. Robert Kuras  
The Bayberry Group, Inc.  
Wood Ridge Road  
Glen Arbor, MI 49636

Dear Mr. Kuras:

I have reached a decision on your application for discharges of fill associated with a proposed golf course and residential development adjacent to the Crystal River in Glen Arbor, Michigan. Your preferred alternative, construction of the course with 4 holes located north of CR 675, which bisects the property, I find is contrary to the overall public interest and does not comply with the Section 404(b)(1) guidelines. Furthermore, the alternative involving the confinement of the entire course south of CR 675 with a mitigation plan that includes the permanent conservation of 7.5 acres north of the CR 675 I find is also contrary to the overall public interest and does not comply with the Section 404(b)(1) guidelines.

I have also determined that an alternative that includes the following conditions would not be contrary to the overall public interest and would comply with the 404(b)(1) guidelines:

1. Confining the entire course to the area south of CR 675,
2. Mitigation that includes the permanent conservation of approximately 47 acres of land north of CR 675 owned or controlled by the applicant,
3. A detailed, enforceable water quality monitoring plan,
4. Further reduction of the wetland impact and avoidance of the riparian corridor south of CR 675.

I have issued a Notice of Intent to Proceed to the U.S. EPA to comply with the intent of a Memorandum of Agreement between EPA and the Corps under Section 404(q) of the Clean Water Act. The present situation does not exactly fit the MOA conditions, as there is no draft permit to be forwarded, but it

does meet the intent of the agreement. A copy of that notice is attached. The EPA Regional Administrator has 15 calendar days to inform us if they have forwarded the issue to the EPA Assistant Administrator for Water with a recommendation to request review by the Assistant Secretary of the Army for Civil Works.

The Notice of Intent to Proceed is necessitated by my identification of an acceptable alternative. If you are not willing to develop an alternative consistent with that outlined above, please notify my staff and the potential elevation process will be terminated.

I have attached a copy of my Statement of Findings and Environmental Assessment, both dated July 5, 2000, for your review.

Should you have any questions, please contact Dave Gesl at the above address or telephone (313) 226-5384.

Sincerely,

Robert J. Davis  
Lieutenant Colonel, U.S. Army  
District Engineer

Date: July 7, 2000

File Number: 88-245-003-5

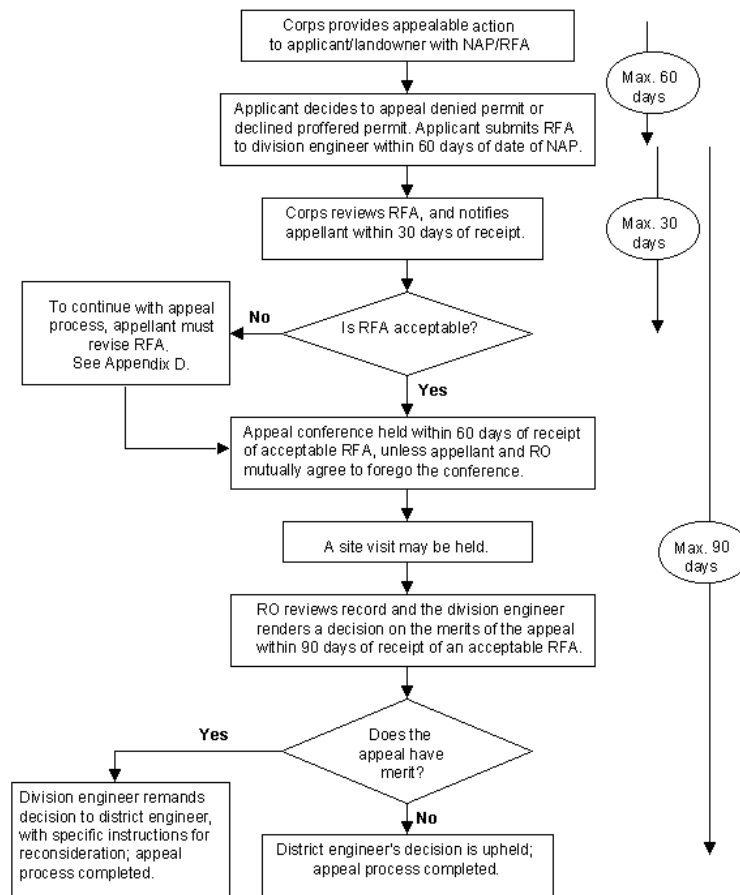
**NOTIFICATION OF APPEAL PROCESS (NAP)  
FOR A PERMIT DENIAL OR A DECLINED INDIVIDUAL PERMIT**

You are hereby notified that you and/or your authorized agent(s) may appeal a permit denial or a declined individual permit under the Corps of Engineers Administrative Appeal Process. The administrative appeal process may be initiated by completing the enclosed Request For Appeal (RFA) form. The RFA should be submitted to the division engineer at:

Brigadier General Robert H. Griffin  
U. S. Army CORPS of Engineers  
Lakes & Ohio River Division  
P. O. Box 1159  
Cincinnati OH 45201-1159

and must be received by the division engineer within 60 days of the date of this NAP. The RFA will be reviewed and processed in accordance with the procedures set forth in 33 CFR Part 331. These procedures are summarized on the enclosed Administrative Appeal flow chart.

### Administrative Appeal Process for Permit Denials and Proffered Permits



NOTE: If new information is provided to the Corps, the applicant will be asked if the applicant wishes to revise the project or record. If so, the appeal will be withdrawn and the case returned to the District for appropriate action. If not, then the Division Engineer will rule on the merits of the appeal based on the administrative record without consideration of the new information. However, the new information may cause the District Engineer to take action under 33 CFR 325.7, independent of the appeal process.

#### Appendix A

**REQUEST FOR APPEAL (RFA)**

Name of Appellant: The Bayberry Companies  
Corps File Number: 88-245-003-5  
Date Filed: \_\_\_\_\_

Reason(s) for Appeal:

\_\_\_\_\_  
(attach additional pages as needed)

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**CONDITIONS:**

1. The reason(s) for requesting an appeal should be clearly stated, and your explanation must contain detailed information explaining the grounds for your appeal of the permit decision, or your appeal of the declined individual permit.
2. The appeal of a permit denial, or a declined individual permit, is limited to a review of the administrative record, the record of the appeal conference, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant or the Corps may raise new issues during the appeal process, but both parties may provide additional information as needed to clarify issues already identified in the administrative record.
3. You must grant right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

*I have read and fully understand the above conditions. I am signing this document to request initiation of an administrative appeal.*

\_\_\_\_\_  
Appellant

